

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re FIRSTENERGY CORP. SECURITIES LITIGATION) No. 2:20-cv-03785-ALM-KAJ
This Document Relates To: ALL ACTIONS.)) CLASS ACTION
)) Judge Algenon L. Marbley
) Magistrate Judge Kimberly A. Jolson
))
))

PLAINTIFFS' RESPONSE AND OBJECTION TO FIRSTENERGY'S OBJECTIONS TO THE SPECIAL MASTER'S MARCH 12, 2024 ORDER

MURRAY MURPHY MOUL
+ BASIL LLP
JOSEPH F. MURRAY (0063373)
1114 Dublin Road
Columbus, OH 43215
Telephone: 614/488-0400
614/488-0401 (fax)
murray@mmb.com

Liaison Counsel

ROBBINS GELLER RUDMAN
& DOWD LLP
DARREN J. ROBBINS (*pro hac vice*)
MARK SOLOMON (*pro hac vice*)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
darrenr@rgrdlaw.com
marks@rgrdlaw.com

Class Counsel

FirstEnergy's objection to the Special Master's order denying its motion for leave to file a reply brief is not well-taken, nor are the inaccurate arguments that comprise its proposed reply. The Special Master's Order (ECF 635) is procedural in nature, so the abuse-of-discretion standard applies. Order & Opinion, ECF 628 at PageID 13887. An abuse of discretion will not be found "unless we reach a 'definite and firm conviction' that the [lower] court 'committed a clear error of judgment.'" *In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 722 F.3d 838, 850 (6th Cir. 2013). Moreover, motions for leave require "good cause." *Student Res. Ctr., LLC v. E. Gateway Cnty. Coll.*, 2023 WL 6213678, at *17 (S.D. Ohio Sept. 25, 2023). Combining these standards, FirstEnergy must show that it was a clear error of judgment for the Special Master to conclude that FirstEnergy failed to establish good cause for filing its proposed reply. FirstEnergy does not come close to making this showing. Federal Rule of Civil Procedure 11 requires FirstEnergy's objection to be warranted by existing law or a nonfrivolous argument for modifying existing law. Fed. R. Civ. P. 11(b)(1). FirstEnergy's objection falls short of the Rule 11 standard, as it is just another delay tactic.

Belaboring FirstEnergy's failure would only assist its efforts to delay this litigation. Accordingly, for the reasons set forth in Plaintiffs' Position Statement Regarding FirstEnergy's Request to File a Motion for Leave (ECF 620 at PageID 13713-717), and explained at the hearing on FirstEnergy's motion (Hearing Transcript, ECF 622 at PageID 13750-766) (attached hereto as Exhibits A and B), Plaintiffs urge the Court to swiftly overrule FirstEnergy's objection.

DATED: March 21, 2024

MURRAY MURPHY MOUL + BASIL LLP
JOSEPH F. MURRAY, Trial Attorney (0063373)

s/ Joseph F. Murray
JOSEPH F. MURRAY

1114 Dublin Road
Columbus, OH 43215
Telephone: 614/488-0400
614/488-0401 (fax)
murray@mmb.com

Liaison Counsel

ROBBINS GELLER RUDMAN
& DOWD LLP
DARREN J. ROBBINS (*pro hac vice*)
MARK SOLOMON (*pro hac vice*)
JASON F. FORGE (*pro hac vice*)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
darrenr@rgrdlaw.com
marks@rgrdlaw.com
jforge@rgrdlaw.com

Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically on March 21, 2024. Notice of this filing will be sent to all electronically registered parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Joseph F. Murray

Joseph F. Murray (0063373)